

ADM File No.2010-12

Stuart Fenton comment

8/23/2011

I'm not sure what the word "interrogate" means in the proposed 2.512 (E). If it means that lawyers cannot have informal discussions with jurors after trials regarding the case, whatsoever, than I strongly object to the rule.

It is normal practice after trials to inform the jury that they are now free to talk to anyone they wish, and that they have the option not to as well. The jurors are always given a chance to leave if they do not wish to discuss the case. If they remain and are willing to talk, lawyers learn invaluable information from these discussions, and it is usually therapeutic for the jurors as well. As long as the jurors are given an opportunity to leave and are free to choose whether to discuss the case, I see no harm in the current practice, and only benefit.

If "interrogation" means formal, under oath questioning of the jurors, that is different. I do not believe the verdict and internal deliberations should be subject to formal, in court, under oath questioning because of the danger of upsetting a previously agreed to and announced unanimous verdict.